

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KENDRA HANKERD,

Plaintiff,

v.

UNITED STATES OF AMERICA and
DONALD TRUMP,

Defendants.

§
§
§
§
§
§
§
§
§
§

CASE NO. 6:19-CV-00063-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. Docket No. 3. Plaintiff Kendra Hankerd (“Plaintiff”), proceeding pro se, filed a complaint on February 25, 2019, against Defendants the United States of America and Donald Trump, in his official capacity as President of the United States of America (collectively referred to as “Defendants”). Docket No. 1. Plaintiff has also sought leave to proceed *in forma pauperis*. Docket No. 2. On April 6, 2019, the Magistrate Judge issued his Report and Recommendation, recommending that this action be dismissed with prejudice as frivolous. Docket No. 5. Plaintiff filed an objection to the Report and Recommendation on April 15, 2019. Docket No. 10.

The Court reviews de novo the portions of the Magistrate Judge’s findings to which objections have been raised. 28 U.S.C. § 636(b)(1). Having reviewed the Magistrate Judge’s findings and Plaintiff’s objections, the Court **OVERRULES** Plaintiff’s Objections (Docket No. 10) and **ADOPTS** the Magistrate Judge’s Report and Recommendation (Docket No. 5) as the findings of the Court. As the Magistrate Judge found, dismissal is appropriate pursuant to 28 U.S.C. § 1915(e)(2)(B) because Plaintiff’s claims are frivolous.

I. LEGAL STANDARD

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See* Fed. R. Civ. P. 72; 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). A court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United States Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

II. ANALYSIS

In her complaint, Plaintiff alleges fifty-one different counts against Defendants. Docket No.


1. Generally speaking, Plaintiff's complaint relates to alleged retaliation and harassment by Defendants and the Federal Bureau of Investigation (FBI) beginning after Plaintiff reported hacking of various of her accounts to the FBI. *Id.* Many of Plaintiff's allegations appear to overlap with her claims in *Hankerd v. Federal Bureau of Investigations*, No. 6:18-CV-00204-JDK-JDL, (E.D. Tex. May 10, 2018) ("*Hankerd I*"), against the FBI and FBI Director Christopher Wray, which the Court has already dismissed. After reviewing Plaintiff's pleading, the Magistrate Judge recommended this action be dismissed as frivolous. Docket No. 5.

After reviewing Plaintiff's objections and the relevant pleadings and filings in this case, the Court agrees with the Magistrate Judge's determination that this action is frivolous. Plaintiff's objections do not provide a sufficient basis for this Court to elevate the claims above "factual frivolousness." *Denton v. Hernandez*, 504 U.S. 25, 33 (1992); *see* Docket No. 10. Accordingly, the Court finds that the Magistrate Judge appropriately determined Plaintiff's claims to be frivolous and recommended dismissal of this action. *Denton*, 504 U.S. at 32–33.

III. CONCLUSION

Having made a de novo review of the objected-to portions of the Report and Recommendation (Docket No. 5), the Court finds, for the reasons explained above, that Plaintiff's objection (Docket No. 10) should be **OVERRULED** and the Magistrate Judge's Report (Docket No. 5) should be **ADOPTED**. This action is **DISMISSED WITH PREJUDICE** as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). A case dismissed as frivolous or malicious under the *in forma pauperis* statute should be deemed to be dismissed with prejudice. *Marts v. Hines*, 117 F.3d 1504, 1506 (5th Cir. 1997) (en banc). Furthermore, the Court **ORDERS** that all other pending motions are **DENIED** as **MOOT**. Finally, the Court notes that this is the second lawsuit Plaintiff has filed relating to these claims, both of which have been dismissed by this Court. *See Hankerd I*. Plaintiff is warned that if Plaintiff continues to file frivolous actions in this Court, filing restrictions may be imposed.

So **ORDERED** and **SIGNED** this **22nd** day of **April, 2019**.


JEREMY D. KERNODEE
UNITED STATES DISTRICT JUDGE